



DEPARTMENT OF ADMINISTRATIVE SERVICES

STATE OF CONNECTICUT

165 Capitol Avenue
Hartford, CT 06106-1658

Raised Bill 5185
An Act Concerning State Agency Permissive
In-State Contracting Preferences

Labor & Public Employees Committee
February 24, 2009

The Department of Administrative Services (DAS) wishes to share the following concerns regarding Raised Bill 5185, An Act Concerning State Agency Permissive In-State Contracting Preferences.

Raised Bill 5185 proposes to modify the state contracting statutes that relate to competitive bidding. Specifically, the bill amends the statute that currently requires that contracts be awarded to the lowest responsible qualified bidder by allowing contracting agencies to give a preference to companies that employ exclusively Connecticut residents to complete the contracts with the State.

DAS understands that the intent of this bill is to encourage companies to hire Connecticut residents; however, currently, the bill appears to create the opposite incentive. As drafted, companies that agree to employ only Connecticut residents may receive a percent increase to their bid before the agency determines which is the lowest bid. This process seems to guarantee that companies that **refuse** to employ only Connecticut residents will **always** be the lowest bidders.

More importantly, however, DAS believes that the overall impact of Raised Bill 5185 could **harm, rather than help, Connecticut employers and employees**. Numerous Connecticut companies – both large and small – employ individuals who live outside of Connecticut's borders. Therefore, although these companies are located in Connecticut (paying taxes to Connecticut and providing economic benefits to the towns where they are based) and have many Connecticut employees, they would not be eligible for this preference.

Moreover, even Connecticut companies with an exclusively Connecticut-based workforce may be harmed by the creation of this preference because it may well lead **neighboring states to retaliate** by imposing their own protectionist measures. Receiving a preference from the state of Connecticut will not necessarily compensate a Connecticut business that has lost opportunities to sell goods and services to New York, Pennsylvania or Massachusetts.

DAS also has serious **concerns about the ability to administer** the preference outlined in Raised Bill 5185. This bill amends section 4e-48, which creates a mandatory reciprocal preference scheme. Inserting the *permissive* in-state workers preference into the *mandatory* reciprocal preference statute creates confusion and invites inconsistency. Further, the administration of this preference is likely to make the bidding process even **more complex** for vendors and to cause even **further delays** in the award of contracts.

Raised Bill 5185 also leaves several **practical questions unanswered**. For example:

- Who would audit whether or not companies are, in fact, employing only Connecticut residents for the completion of the various state contracts?
- Would a manufacturing company be eligible to receive the preference if the component parts being assembled by Connecticut workers were themselves created by non-Connecticut workers?
- What would happen if, sometime after a contract is awarded, the vendor becomes unable to employ exclusively Connecticut residents (i.e. one or more of the vendor's employees moved out of state during the term of the contract)?

Finally, DAS believes that Raised Bill 5185 is likely to increase contracting costs for the State of Connecticut by encouraging agencies to award contracts to companies other than the lowest bidders.

Substitute Language. DAS understands that the Committee has drafted substitute language for this bill, and we had the opportunity to briefly review this substitute language before today's hearing.

In general, the substitute language creates a state contracting preference for vendors based upon the estimated state income tax paid by employees working for the vendors. Although DAS has not had time to review this language in depth, we have serious **concerns about our ability to administer and audit** the criteria outlined in the proposal. Certainly this language will make an already complicated bidding and evaluation process even more so for both vendors and contracting agencies. Additionally, the proposed substitute language is also likely to decrease competition for state contracts, which would result in **increased contracting costs** for the state.

Thank you for the opportunity to provide comments on Raised Bill 5185. Please direct any questions about this testimony or other DAS legislative issues to Andrea Keilty (713-5267); andrea.keilty@ct.gov.